

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Revision of the Commission's)	CC Docket No. 94-102
Rules to Ensure Compatibility)	
With Enhanced 911 Emergency)	DA 02-1575
Calling Systems)	

To: The Federal Communications Commission

INITIAL COMMENTS OF THE TEXAS 9-1-1 AGENCIES

The Texas Commission on State Emergency Communications ("TX-CSEC") and certain Texas Emergency Communication Districts,¹ hereinafter referred to as the "Texas 9-1-1 Agencies," respectfully file these initial comments to the Wireless Telecommunications Bureau's July 3, 2002, public notice requesting Comments / Oppositions to Petition for Reconsideration and Request for Stay filed by the Emergency Services Interconnection Forum ("ESIF") to the Commission's *Report and Order* adopting sections 20.18 (l)(1)(i) and (l)(2)(i) of the Commission's rules.² At this time, the Texas 9-1-1 Agencies do not believe that the ESIF has

¹ TX-CSEC is a state agency created pursuant to Texas Health and Safety Code Chapter 771. The Texas Emergency Communication Districts are Bexar Metro 9-1-1 Network, Brazos County Emergency Communication District, Calhoun County 9-1-1 Emergency Communication District, DENCO Area 9-1-1 District, Galveston County Emergency Communication District, Greater Harris County 9-1-1 Emergency Network, Henderson County 9-1-1 Communication District, Howard County 9-1-1 Communication District, Kerr County Emergency 9-1-1 Network, Lubbock County Emergency Communication District, McLennan County Emergency Communication District, Montgomery County Emergency Communication District, Wichita-Wilbarger 9-1-1 Communication District, Potter-Randall County Emergency Communications District, Smith County 9-1-1 Communications District, Tarrant County 9-1-1 District, and Texas Eastern 9-1-1 Network. These districts were created pursuant to Texas Health and Safety Code Chapter 772.

² Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-initialized Phones, CC Docket No. 94-102, RM-8143, Report and Order, FCC 02-120 (rel. April 29, 2002 (Order); 67 Fed Ref. 36112 (2002)).

presented sufficient information related to the Request for Stay or Petition for Reconsideration; therefore, the Texas 9-1-1 Agencies will respectfully reserve the right to oppose and/or further comment on ESIF's Request for Stay or Petition for Reconsideration until after review of the comments to be filed by interested parties on August 2, 2002. If the initial and reply comments do not provide the FCC with a thorough enough record related to these issues, then for the reasons stated herein, the Texas 9-1-1 Agencies request the Bureau to establish a workshop / meeting in September to allow all interested parties to participate, discuss, and answer questions related to the appropriate solution to the public safety issues related to the use of non-initialized service ("NIS") phones to call Public Safety Answering Points ("PSAPs"). The Texas 9-1-1 Agencies request the implementation of the ultimately adopted solution no later than the end of the year 2002.

Implementation of the FCC Order

The Texas 9-1-1 Agencies support the efforts made by the FCC to provide a solution to solve the issues related to the use of NIS phones to access 911. The delivery of the 123-456-7890 to the PSAP, when a caller using an NIS phone seeks emergency assistance, alerts the PSAP to immediately ascertain location from the caller since the PSAP knows that this caller cannot be called back. The Texas 9-1-1 Agencies do have questions related to the application of the FCC decision to previously donated handsets.

In Paragraphs 2 and 32 of the Commission's Order, the FCC required carriers to complete any network programming necessary to deliver the 123-456-7890 telephone number for an NIS or "911-only" phone to PSAPs. At first blush, this requirement seemed to create a network solution that applied to all previously donated handsets. The fact that future donated handsets would be programmed with the 123-456-7890 would simply assist the network in transferring this phone number to the PSAP similar to "911-only" phones. The network should

be able to have immediate knowledge of whether the phone utilizing the network is from an initialized subscriber or not (i.e. NIS phone). After further review of the adopted rule and the public notice on the ESIF requests for stay and reconsideration, the Texas 9-1-1 Agencies are unsure about whether the FCC's decision was for the network to assign 123-456-7890 to any NIS phone call to a PSAP. The network would need no other "programming necessity" since the future handsets would be assigned the 123-456-7890 number as well as all "911-only" phones. Unfortunately, the proposed rule does not discuss the network programming necessity requirement discussed in the Order. The issue of application is extremely important in addressing ESIF's petition for reconsideration and petition for stay. Without application of the solution to the tens of thousands of previously donated NIS phones, public safety is left with only one solution – to insist on seeking wireless subscriber's location FIRST in all calls reaching a PSAP. The wireless providers must, in turn, educate its subscribers that access to 911 from a wireless phone simply will never equal the public safety of the wireline network. If the FCC's decision cannot be applied to previously donated handsets, public safety's concerns are still not fully addressed or mitigated.

ESIF's Petition for Reconsideration and Request for Stay

ESIF's support for its petition and request are twofold: first, programming 911 plus the last seven digits of the ESN or the IMEI to the handset allows for the potential identification of the specific phones used; and second, the potential for the removing one million numbers for the IRM assignment pool.³ The Texas 9-1-1 Agencies will address the latter first.

As noted by the FCC in paragraph 34, over 40,000 "911-only" handsets already have the

³ Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-Initialized phones, CC Docket No. 94-102, ESIF Petition for Reconsideration, filed June 12, 2002 at pp. 4-6 and ESIF Request for Stay, filed June 12, 2002 at pp. 4-6.

123-456-7890 number assigned and many have connected to and delivered that MIN to the only location the phones can access, a PSAP. If the million numbers from the IRM assignment pool were not eliminated, how can they be eliminated by the FCC's order? Again, in an effort to allow ESIF an opportunity to support its petition and request, the Texas 9-1-1 Agencies request the Bureau to establish a workshop or meeting to answer these questions. The FCC's requirement of implementing 123-456-7890 at the network and then future donated handset level seems to be an appropriate solution as long as we address ESIF's first concern.

ESIF desires to implement a 911 plus the last seven digits of the ESN or the IMEI to the handset to address the public safety concerns of calls to the PSAPs from NIS or "911-only" phones. If this were to be adopted, call takers at PSAPs will now have both sets of numbers to recognize. This may not be the best public safety approach. ESIF's concerns about potential harassment calls are valid, but may ultimately be distinguishable from the issue of assisting a specific caller when an emergency is occurring. The FCC has established Phase I and II requirements for the location of callers accessing 911. If someone is making harassing calls to a PSAP, they can do so from any phone, including an NIS phone or a disposable phone. ESIF's solution does not solve those issues and most certainly does not address the issue of assisting a caller making a legitimate request for emergency services, which ultimately is our goal. Further, the Texas 9-1-1 Agencies do not desire another database having the name of the person who received a donated handset much less establishing some methodology to access and utilize this database. Again, so as to not preclude ESIF from supporting its request and ascertain any validity to their solutions, the Texas 9-1-1 Agencies request the Bureau to establish a workshop to discuss these issues.

CONCLUSION

The Texas 9-1-1 Agencies support the FCC's efforts to provide a solution to solve the issues related to the use of NIS phones to access 911. At this time, the Texas 9-1-1 Agencies do not believe that the ESIF has presented sufficient information related to the Request for Stay or Petition for Reconsideration. If the initial and reply comments do not provide the FCC with a thorough enough record related to these issues, then a workshop may provide ESIF and others the opportunity to create an appropriate solution to this public safety concern. The Texas 9-1-1 Agencies do have a concern with the application of the FCC decision to previously donated handsets. If the FCC's decision cannot be applied to previously donated handsets, public safety's concerns are still not fully addressed or mitigated.

Respectfully submitted,

Rupaco T. González, Jr.
State Bar No. 08131690

Richard A. Muscat
State Bar No. 14741550

Attorneys to the Texas 9-1-1 Agencies

The González Law Firm, P.C.
PMB # 117
8127 Mesa Drive, Suite B 206
Austin, TX 78759
(512) 330-9696
(512) 330-9898 (FAX)
pacolaw@msn.com

Certificate of Service

I certify that a copy of these comments is being served on or before August 2, 2002 by regular or overnight mail, or fax on the Commission Secretary and other the personnel required by the public notice or electronically as provided by the public notice.

Richard Muscat